



# **THE ATTORNEY GENERAL OF TEXAS**

**WAGGONER CARR**  
ATTORNEY GENERAL

**AUSTIN 11, TEXAS**  
November 26, 1963

Honorable J. W. Edgar  
Commissioner of Education  
Texas Education Agency  
Austin, Texas

Opinion No. C-185

Re: Constitutionality of House Bill  
524, Acts of 58th Legislature.

Dear Sir:

You have requested an opinion of this office on the constitutionality of House Bill 524, which was recently passed by the 58th Legislature and is now compiled as Article 2752a of Vernon's Civil Statutes.

House Bill 524 reads as follows:

"An Act amending the Revised Civil Statutes of Texas, 1925, by adding thereto a new Article, to be known as Article 2752a, providing for competitive bidding on all purchases by a public school of a value over One Thousand Dollars (\$1,000) and on all contracts by a public school for the construction, maintenance, repair or renovation of any building or for the materials used in the construction, maintenance, repair or renovation thereof when said contracts involve One Thousand Dollars (\$1,000) or more; providing certain exceptions; providing for notice and publication; and declaring an emergency.

"BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

"Section 1. The Revised Civil Statutes of Texas, 1925, are amended by adding thereto a new Article, to be known as Article 2752a, which shall read as follows:

"'Art. 2752a.

"'All contracts proposed to be made by any Texas public school board for the purchase of any property, real or personal, shall be submitted to competitive bidding when said property is valued at One Thousand Dollars (\$1,000) or more. All contracts proposed to be made by any Texas public school board for the construction, maintenance, repair or renovation of any building or for materials used in said construction,

maintenance, repair or renovation, shall be submitted to competitive bidding when said contracts involve One Thousand Dollars (\$1,000) or more. Nothing in this Act shall apply to fees received for professional services rendered, including but not limited to architects fees, attorney's fees, and fees for fiscal agents. Notice of the time when and place where such contracts will be let and bids opened shall be published in the county where the purchasing school is located once a week for at least two (2) weeks prior to the time set for letting said contract and in two (2) other newspapers that the school board may designate. Provided, however, that on contracts involving less than Twenty-five Thousand Dollars (\$25,000) such advertising may be limited to two (2) successive issues of any newspaper published in the county in which the school is located, and if there is no newspaper in the county in which the school is located, then said advertising shall be for publication in some newspaper in some county nearest the county seat of the county in which the school is located.'" (Emergency clause omitted).

In House Bill 524, as set out above, there is some variance between the title and the body of the Act. The title provides for competitive bidding on purchases by "a public school" while the body of the Act provides for such bidding on purchases by "any Texas public school board." The title provides for such bids for purchases "of a value over One Thousand Dollars" and the body of the Act provides for bids on purchases "valued at One Thousand Dollars (\$1,000) or more." ". . . The general test is whether the title is uncertain, misleading, or deceptive to the average reader, and if the court feels that the title is sufficient to direct a person of ordinary, reasonably inquiring mind to the body of the act, compliance with the constitution has been effected." 1 Sutherland, Statutory Construction, 288. Even though there is a variance between the title and body of the Act it is not such as to render the Act unconstitutional under the above test.

"In deciding the constitutionality of a statute alleged to be defectively titled, every presumption favors the validity of the act. As is true in cases presenting other constitutional issues, the courts avoid declaring an act unconstitutional wherever possible. Where there is any doubt as to the

Honorable J. W. Edgar, page 3 (C-185)

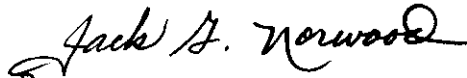
insufficiency of either the title, or the act, the legislation should be sustained." 1 Sutherland, Statutory Construction, 295. In view of these rules of construction and after careful study of House Bill 524, it is the opinion of this office that the bill is valid and constitutional.

SUMMARY

House Bill 524, Acts of the 58th Legislature,  
is constitutional.

Yours very truly,

WAGGONER CARR  
Attorney General

  
By

Jack G. Norwood  
Assistant

JGN:wb

APPROVED:

OPINION COMMITTEE

W. V. Geppert, Chairman  
Malcolm Quick  
J. C. Davis  
C. L. Snow, Jr.

APPROVED FOR THE ATTORNEY GENERAL

BY: Stanton Stone